

May 10, 2006

Ms. Kelli Farmer
Consumer and Governmental Affairs Bureau, Policy Division
Federal Communications Commission
445 12th Street, SW
Room 5-A866
Washington, DC 20554

RE: CG Docket No. 02-278

Dear Ms. Farmer:

Education Assistance Corporation (EAC) is a participating guarantor in the Federal Family Education Loan (FFEL) Program (the largest Federal student loan program) and manages a loan portfolio exceeding \$3,155,000,000. As one of the nation's student loan guarantors, EAC is responsible for performing vigorous default prevention and default collection activities. EAC performs these activities using both internal staff and third-party agencies.

I am writing in response to your office's call for comment on ACA International's Petition for an Expedited Clarification and Declaratory Ruling Concerning the Telephone Consumer Protection Act (TCPA) Rules (CG Docket No. 02-278). EAC has read the ACA petition and concurs with its basic premise that Federal law and corresponding FCC regulations concerning the prohibited use of autodialers by telemarketers to contact borrowers on cellular telephones were never intended to and should not apply to lenders, servicers, guarantors, and collectors attempting to recover payments for goods and services already purchased. Failure by the FCC to clarify this position will be detrimental to EAC and the Federal student loan program as a whole.

Autodialer technology provides an efficient and effective tool to facilitate contacting existing customers. The inability to use this technology would adversely impact the ability of lenders, servicers, guarantors, and collectors to work with borrowers to address their special needs and to help them meet their loan obligations. Default prevention and default collection activities would be greatly impeded. The result will be increased loan defaults and reduced recoveries. Countless borrowers who otherwise would bring their accounts current or learn that they are eligible for a deferment or forbearance will suffer the negative ramifications of student loan default. These are real dollar and human costs, and they can be avoided by the proper FCC declaratory ruling in favor of the ACA petition.

EAC respectfully requests that the Commission issue a declaratory ruling clarifying that 47 C.F.R. § 64.1200(a)(1)(iii) does not apply to lenders, servicers, guarantors, and collectors when calling telephone numbers to recover payments for goods and services received by consumers and that the 2003 TCPA rulemaking did not alter the Commission's previous findings that calls to recover debts are not subject to the TCPA's autodialer restrictions.

Sincerely,

Ellen Welke, Vice President
of Preclaims, Claims, and Collections